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LEGISLATIVE HISTORY

Public Law 91-374

H.R. 914

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INDEX AND SUMMARY OF H.R. 914

- Jan. 3, 1969 Rep. Ullman introduced H.R. 914 which was referred to House Judiciary Committee. Print of bill as introduced.
- Feb. 9, 1970 House judiciary committee reported with amendment H.R. 914. H. Rept. 91-833. Print of bill and report.
- Mar. 3, 1970 House passed H.R. 914 under suspension of rules.
- June 26, 1970 Senate judiciary committee reported H.R. 914 without amendment. S. Rept. 91-977. Print of bill and report.
- July 29, 1970 Senate passed H.R. 914 as reported.
- Aug. 11, 1970 Approved: P.L. 91-374

THEORY OF THE EARTH

The theory of the earth is a branch of geology which deals with the origin and development of the earth and its various parts. It is a science which seeks to explain the causes of the various geological phenomena which we observe in nature. The theory of the earth is a branch of geology which deals with the origin and development of the earth and its various parts. It is a science which seeks to explain the causes of the various geological phenomena which we observe in nature.

91ST CONGRESS
1ST SESSION

H. R. 914

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1969

Mr. ULLMAN introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

For the relief of Hood River County, Oregon.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That Hood River County, Oregon, is relieved of liability to
4 the United States in the amount of \$84,841.36 representing
5 an amount owed by such county to the United States Forest
6 Service, Department of Agriculture, for alleged timber tres-
7 pass arising out of timber sales from the land described in
8 section 2 of this Act during the period 1946 through 1961.
9 In the audit and settlement of the accounts of any certifying
10 or disbursing officer of the United States, credit shall be
11 given for amounts for which liability is relieved by this Act.

1 SEC. 2. The Secretary of the Interior is authorized
2 and directed to convey, by quitclaim deed, and without
3 monetary consideration, and within ninety days after the
4 date on which this Act is approved, to Hood River County,
5 Oregon, all right, title, and interest which the United States
6 may have in and to one hundred and sixty acres of land,
7 more or less, located in Hood River County which land is
8 more fully described as the northwest quarter of the northeast
9 quarter and the north half of the northwest quarter and the
10 southeast quarter of the northwest quarter of section 9,
11 township 1 south, range 8 east, of the Willamette Meridian.

12 SEC. 3. (a) The Secretary of the Treasury is author-
13 ized and directed to pay, out of any money in the Treasury
14 not otherwise appropriated, to Hood River County, Oregon,
15 a sum of money, which shall be determined by the Secre-
16 tary of Agriculture as provided in subsection (b) of this
17 section, in full settlement of all its claims against the United
18 States for the sale of timber by the United States Forest
19 Service from the land described in section 2 of this Act.

20 (b) The Secretary of Agriculture shall determine and
21 certify to the Secretary of the Treasury a sum of money
22 which equals the revenue received by the United States from
23 any sale of timber made by the United States Forest Service
24 after January 1, 1964, from the land described in section 2
25 of this Act.

1 SEC. 4. No part of the amount appropriated in section
2 3 of this Act in excess of 10 per centum thereof shall be
3 paid or delivered to or received by any agent or attorney on
4 account of services rendered in connection with this claim,
5 and the same shall be unlawful, any contract to the contrary
6 notwithstanding. Any person violating the provisions of this
7 section shall be deemed guilty of a misdemeanor and upon
8 conviction thereof shall be fined in any sum not exceeding
9 \$1,000.

91ST CONGRESS
1ST Session

H. R. 914

A BILL

For the relief of Hood River County, Oregon.

By Mr. ULLMAN

JANUARY 3, 1969

Referred to the Committee on the Judiciary

HOOD RIVER COUNTY, OREG.

FEBRUARY 9, 1970.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of New York, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 914]

The Committee on the Judiciary, to whom was referred to bill (H.R. 914) for the relief of Hood River County, Oreg., having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert:

That Hood River County, Oregon, is relieved of all liability to the United States for any amounts owed by such county to the United States for amounts claimed by the U.S. Forest Service, Department of Agriculture, for alleged timber trespass arising out of timber sales during the period 1946 through 1961, inclusive, from the land described as follows:

"One hundred and sixty acres of land, more or less, located in Hood River County which land is more fully described as the northwest quarter of the northeast quarter and the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 9, township 1 south, range 8 east, of the Willamette Meridian."

PURPOSE

The purpose of the proposed legislation, as amended, is to relieve Hood River County, Oreg., of all liability to the United States, based on the proceeds of timber sales from 160 acres of land considered to have been a part of the Hood River County Forest in the period 1946 through 1961, which land was subsequently held by the United States to be Federal land.

STATEMENT

During the 90th Congress a similar bill, H.R. 3165, was favorably reported and passed the House on June 3, 1968. That bill was the subject of a subcommittee hearing on Wednesday, April 24, 1968. At that

time, representatives of Hood River County, Oreg., and of the Forest Service of the Department of Agriculture appeared and testified concerning the circumstances which gave rise to the claim by the United States against the county. At the hearing a map was submitted which shows the 160-acre tract to be immediately south and east of a tract of forest land which is part of the Hood River County Forest. The 160-acre tract was designated a part of the Hood River County Forest in September of 1950 and was managed as a part of the county forest. It was discovered in 1961 that there was a question concerning the county's ownership of the tract. The report of the Department of Agriculture indicates that at that time, the State's title to this particular land was challenged in private litigation and, in connection with that litigation, inquiries were made to the Bureau of Public Land Management concerning the status of the tract. These inquiries resulted in a determination by the Government that the land was a part of the Mount Hood National Forest. The Forest Service notified the Hood River County commissioners of this determination in November of 1963.

At the hearing, the representatives of the county testified that prior to these developments, the county, in good faith, regarded itself the owner of the 160 acres of forest land. The county had regarded itself as the owner of the land for more than 40 years since the county had received a sheriff's deed to the property after delinquent tax foreclosure proceedings against the tract in 1922. The basis for the Government's determination that the land belonged to the Federal Government involved the discovery of an 1892 communication in the files of the Department of the Interior indicating that this particular property had been included in a large block of land that was intended for later designation as the Cascade Forest Reserve. This is the action referred to in the Department of Agriculture report when it states that on March 28, 1892, all of section 9 was withdrawn from entry under the public land laws for the purpose of creating the Cascade Forest Reserve.

This particular letter was dated a few months before the State of Oregon selected the 160 acres as "lieu" lands by filing Indemnity Selection List No. 226 on December 27, 1892. Hood River County traced its title from this selection for the State conveyed the 160 acres to a private owner, Mr. Edward Jones, on January 2, 1893. As has been outlined above, the county subsequently acquired the land as the result of foreclosure of delinquent taxes which had accrued subsequent to its conveyance to private ownership and prior to 1922. The Government's position is, in substance, that notwithstanding the selection by the State, its subsequent conveyance to a private individual, and the acquisition of title by tax foreclosure proceedings by the county, and the subsequent 40 years during which the county asserted its rights as owner of the land, the U.S. Government still had title to the land and further never parted with title to the property.

In the report of the Department of Agriculture, it stated that prior to discovery of the question concerning title in the county, the Forest Service assisted the county in the management of this particular property along with more than 26,000 acres of the Hood River County forest lands. At the hearing on the bill, in the last Congress the representative of the Forest Service stated that at that particular time, the Forest

Service relied on county records in determining the title and boundaries of forest land subject to management. On the assumption that Hood River County was the owner of the 160-acre tract, the Forest Service, acting under contracts with the county, planned, supervised, and carried out on behalf of the county five separate sales of timber from the property between 1946 and 1961. The Hood River County received from those sales a total of \$84,841.36. The committee is advised that the amount claimed by the United States is based on this payment to the county.

The committee was further advised that the Government also in 1965 claimed title to the property and has sold timber off the property in 1965-67 for which it has received some \$102,000 in revenues. These revenues are, of course, not involved in the amended bill.

The inequity to which H.R. 914 is addressed arises out of this assertion of rights by the Federal Government in the light of the particular circumstances concerning title and ownership of this specific tract. As a practical matter, no one was aware of the technicalities of the title situation until late 1961, after Hood River County had been considered the owner of the property for over the 40 years which elapsed since the 1922 tax foreclosure. It is also clear that the Government acted after five timber sales had been made on that assumption by the U.S. Forest Service acting for Hood River County. The amended bill will grant relief which, as a practical matter, is unavailable through judicial proceedings. The claim of the Government against Hood River County arose under circumstances demonstrating complete good faith upon the part of Hood River County which treated the 160 acres as its own property for over 40 years after 1922.

The testimony at the hearing indicated that Hood River County, in a court proceeding, probably could not successfully defend against the timber trespass claim of the U.S. Government based on the five timber sales between 1946 and 1961, and therefore could not legally establish its title to the subject property as against the U.S. Government.

The committee has further been advised that payment would impose a substantial economic hardship to Hood River County if the U.S. Government would force a payment of \$84,841.36. The total budget of this small county for the previous fiscal year was \$1,686,313, of which \$351,744 was raised from taxes imposed directly on its citizens and their property. A timber trespass judgment for \$84,841.36 would represent approximately 5 percent of Hood River County's total annual budget. Since any such judgment would have to be paid from additional tax revenue, a judgment for \$84,841.36 would mean a 1-year increase of almost 25 percent in the total direct taxes imposed on the citizens of Hood River County. If the judgment was for double damages (approximately \$169,000), this would represent 10 percent of the county's total annual budget, and a 1-year tax increase of almost 50 percent over the present level of taxation.

The bill, as amended by the committee, would relieve the county of the obligation to pay the United States the \$84,841.36 claimed by the Government but would not grant the other relief originally included in the bill. In the 90th Congress identical amendments were made to the bill H.R. 3165 and the bill passed the House so amended on June 3, 1968. The bill H.R. 914, as introduced in the current Con-

gress, would have also provided for a conveyance of the disputed 160 acres and would have further required a payment to the county of an amount equal to the money paid the United States as the result of sale of timber from the property since assertion of title by the Federal Government. The committee deleted the other provisions so that the bill does not alter the position of the parties as regards ownership of the land. As has been noted, the repayment would impose a heavy burden on the county and it is felt that the amended bill provides for an equitable adjustment of the matter and is fair in the light of all the circumstances which have been detailed in this report. While the Department of Agriculture has questioned relief, the committee feels the amended bill meets most of the Department's objections.

In this connection it should be noted that the General Accounting Office in its report to the committee on the bill has indicated it would have no objection to relief as is now provided in the amended bill if it is determined that repayment would work such a hardship. Accordingly, it is recommended that the amended bill be considered favorably.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., September 11, 1969.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reference to your letter of August 4, 1969, requesting our views on H.R. 914.

The bill provides for relief of Hood River County, Oreg., from Forest Service claims of \$84,841.36 arising from the payment, by the Forest Service to the county, of receipts obtained from timber sold from lands erroneously thought to belong to the county but which were found to be owned by the Federal Government. The lands involved, a 160-acre tract of forest land located near Lost Lake in Hood River County, were considered a part of the Hood River County Forest. Timber management activities conducted by the county on this tract were programed and carried out by Forest Service employees under cooperative agreements. An inquiry by a land speculator in 1961 as to the status of these lands resulted in a Forest Service investigation which disclosed that the lands were, in fact, national forest lands.

H.R. 914 also provides for the transfer, without monetary consideration, of all right, title, and interest which the United States may have in the 160 acres of land to the county and for payment to the county of receipts obtained from timber sales made subsequent to January 1, 1964. H.R. 914 provides for the Secretary of the Interior to transfer United States title because, although the lands in question are administered and managed by the Forest Service, the land status records of all lands which were part of the public domain reside in the Department of the Interior and the authority to convey title of such lands is vested in the Secretary.

The following information on the background of the proposed legislation was obtained from Forest Service files and discussions with agency officials:

EVENTS RESULTING IN MISUNDERSTANDING OF LANDOWERSHIP

The lands involved are described as the northwest quarter of the northeast quarter and the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 9, township 1 south, range 8 east, of the Willamette meridian. Forset Service records show that lands of the same description but located in range 8 west instead of range 8 east were selected as school indemnity lands by the State of Oregon on list No. 226, filed December 27, 1892, and approved, except for the north half of the northwest quarter, under clear list No. 9 on January 29, 1894. There is no record of an application for patent to the lands located in range 8 east or of a patent being issued.

Forest Service records show that the State may have intended to select range 8 east instead of range 8 west, the lands approved under clear list No. 9. It appears that the State wrote to the Department of the Interior in 1894 questioning a possible mixup in selection of lands under list No. 226 and clear list No. 9. The Acting Commissioner of the General Land Office (now Bureau of Land Management), by letter dated May 24, 1894, advised the register and receiver, Oregon City, Oreg., that the lands in range 8 east were within the limits of the Cascade Forest Reservation. The Acting Commissioner wrote that these lands had been temporarily withdrawn as a portion of the Cascade Forest Reserve by office letter dated March 28, 1892, and therefore were not available for selection on December 27, 1892, the date list No. 226 was filed. The lands were subsequently withdrawn by Executive order dated September 28, 1893, which superseded the temporary withdrawal and officially established the Cascade Forest Reserve. The name of the forest reserve was changed from Cascade to the Oregon National Forest and was further changed to Mt. Hood National Forest by Executive Order No. 3944, on July 24, 1924.

Forest Service records show that, in November 1892, Edward G. Jones of Wasco County, now Hood River County, filed an application for the lands located in range 8 east with the State of Oregon in the event the State obtained the property under school indemnity provisions. As discussed previously, the record shows that the State did not obtain title to the lands in question. Nevertheless, on January 2, 1893, the State sold the lands to Mr. Jones. The Forest Service believes that, in preparing the application which he filed with the State in November 1892, Mr. Jones may have inadvertently specified the wrong range (range 8 east instead of range 8 west) and this passed unnoticed by the State.

On January 31, 1922, Hood River County filed a tax foreclosure on the lands located in range 8 east, and on December 5, 1922, a tax deed was issued to Hood River County. On September 20, 1951, this land was designated as a part of the Hood River County Forest. The timber on this tract was managed as a part of the county forest until 1961, when an inquiry on February 14, 1961, by Mr. William W. Deardorff, president of Western Tree Farms, Inc., as to the status of these lands disclosed that the lands had always been in national forest ownership.

FOREST SERVICE CLAIMS AGAINST THE COUNTY

Timber management activities conducted by the county on the lands in question were programed and carried out by the Forest Service

employees under formal cooperative management agreements with the county. The 160 acres of land in question were a part of some 26,700 acres located in Hood River County that have been so managed.

Five timber sales were made by the county on the tract in question during the period 1946-61. In each case, the timber sale was arranged and managed for the county by the Forest Service. A total of 5,350,940 board feet of timber were cut in the five sales with receipts of \$84,841.36 going to the county.

Forest Service records show that the receipts were comprised of the following items:

Total stumpage receipts from five timber sales.....	\$71, 672. 13
Collected from purchasers of timber and placed in special accounts for slash disposal and timber stand improvement.....	¹ 7, 649. 52
Collected from purchasers of timber for the county bridge fund.....	¹ 5, 519. 71
Total.....	84, 841. 36

¹ None of the receipts were spent on the 160-acre tract in question.

We were advised by Forest Service personnel that information pertaining to timber sales made on the lands in question subsequent to discovery in 1961 of national forest ownership is not available in Washington, D.C. Section 3(b) of the bill provides for payment to the county of revenue received from the sale of timber subsequent to January 1, 1964. In this connection, Forest Service officials advised us that, to the best of their knowledge, no sales were made between 1961 and January 1, 1964. They stated, however, that the Pacific Northwest region will be requested to provide to the headquarters office information on sales made subsequent to 1961.

COUNTY NOTIFIED OF TITLE DEFECT

The forest supervisor of the Mount Hood National Forest notified the county commissioners, by letter dated November 12, 1963, that the Forest Service investigation into the legal ownership of the lands in question indicated that the State had erroneously sold such lands to Mr. Jones on January 2, 1893, in the belief that the State had applied for such lands as indemnity land. The forest supervisor wrote that, in accordance with advice received from the Forest Service Washington office, he wanted to give appropriate notice to county and State agencies that the lands in question legally appeared to be national forest land and subject to national forest administration.

County officials were contacted further by the forest supervisor on October 18, 1965, and were given a verbal report on the volume and value of the timber cut. He advised them that it would be necessary for the Forest Service to bill the county for \$84,841.36. County officials suggested the possibility of a land transfer as a means of settling the payment and also inquired as to whether it would be permissible to pay the amount in installments because of the severe hardship on the county to make payment.

The forest supervisor advised county officials by letter dated November 16, 1965, that a schedule of payments could be arranged. He also suggested that the case could be settled by a transfer of land from the county to the Forest Service, provided the following conditions were met:

1. Hood River County would elect to settle the claim by a transfer of land.

2. Hood River County has the authority to deed its land to the United States for this purpose.

3. The U.S. Department of Justice would approve the proposed land transfer as a settlement of the claim.

The forest supervisor also advised these officials that he would delay further action until he was contacted by them.

Forest Service records show that, in mid-1966 there was no progress to report on the case. By letter dated July 12, 1966, the Washington office suggested to the regional forester an additional means of settling the agency's claim against the county. The Washington office proposed, if the county were willing, to make withholdings on an installment basis over a period of years from the 25-percent funds returned to the State and county from Federal timber sales made in the State. A stated amount agreed to by the county would be withheld from the amount normally given to the county.

About the same time, however, the county board of commissioners requested introduction of legislation which would waive any claim of the U.S. Government against the county for timber trespass on the lands in question and clear the county's title to it by granting all right, title and interest of the U.S. Government in the lands to the county.

Generally, we have not favored the enactment of private relief legislation on behalf of debtors who are financially able to repay their obligations. If however, your committee feels that the facts and circumstances in this case create a hardship on the county which should be alleviated by the relief legislation now proposed there would, of course, be no objection on our part. Whether the land should be conveyed to the county by quitclaim deed without monetary consideration is a matter of policy for determination by the Congress and one on which we express no opinion.

Sincerely yours,

R. F. KELLER,

Acting Comptroller General of the United States.

DEPARTMENT OF AGRICULTURE,

OFFICE OF THE SECRETARY.

Washington, D.C., October 11, 1969.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR MR. CHAIRMAN: As you asked, here is our report on H.R. 914, a bill "For the relief of Hood River County, Oregon."

H.R. 914 concerns timber cutting by Hood River County, Oreg., on certain described lands that are a part of the Mt. Hood National Forest. The bill would (1) relieve Hood River County of liability for the trespass; (2) authorize the Secretary of the Interior to convey all right, title, and interest of the United States in the lands involved, comprising 160 acres, to Hood River County; and (3) authorize the Secretary of the Treasury to pay to Hood River County a sum equaling the revenue received by the United States for timber sales from the tract since January 1, 1964.

For the reasons discussed in the attachment to this letter we recommend that H.R. 914 not be enacted.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

CLIFFORD M. HARDIN,
Secretary of Agriculture.

Enclosure.

USDA COMMENTS ON H.R. 914

The tract to which H.R. 914 applies lies within section 9, township 1, south, range 8 east, Willamette principal meridian. We will refer to this tract as "Tract A."

Tract A was originally held by the United States as a part of the public domain. On March 28, 1892, the above-described section 9, including tract A, was withdrawn from entry under the public land laws for the purpose of creating the Cascade Forest Reserve (now the Mount Hood National Forest).

Subsequently on December 27, 1892, the State of Oregon undertook to select 160 acres of land in lieu of certain school lands to which it was entitled under the public land laws. The selected tract (we will refer to it as "Tract B") had a description identical to that for tract A, except the State's selection described it as lying within section 9, township 1 south, range 8 west.

The State of Oregon apparently believed it had selected tract A, lying within range 8 east, for it purported to transfer its interest in tract A to Mr. Edward Jones on January 2, 1893.

On January 29, 1894, the General Land Office approved 80 acres of the State's selection of tract B. This part of tract B thus became State land. On April 9, 1894, the General Land Office canceled the selection of the remaining 80 acres of tract B, because that part had been patented in 1889 pursuant to a homestead entry.

After it received the approval of the selection of a portion of tract B, the State of Oregon sought to have it canceled and to substitute tract A therefor. On May 24, 1894, the Acting Commissioner of the General Land Office wrote the register and receiver in Oregon City, Oreg., and informed him that this could not be done. The Acting Commissioner also pointed out that tract A had been withdrawn as a part of the Cascade Forest Reservation in March 1892, and was thus not subject to selection by Oregon when it filed its selection of tract B in December 1892.

Hood River County subsequently treated tract A for taxing purposes as non-Federal land. In January 1922, the county filed a tax foreclosure on the tract, and in December 1922, a tax deed was issued to it. During the period 1946-61, the county made five timber sales from this tract.

In September 1951, tract A was designated by the county as a part of the Hood River County Forest. It was managed as a part of the county forest until the early 1960's. At that time the State's title to tract A was challenged in private litigation. In connection with this litigation, inquiries were made to the Bureau of Land Management regarding the status of this tract. These revealed that tract A was part of the

Mount Hood National Forest. The Forest Service notified the Hood River County Commissioners of this status in November 1963.

Before Hood River County's error was discovered, the Forest Service assisted the county in the management of timber on some 26,700 acres of the Hood River County Forest lands, which included tract A. Under cooperative agreement the Forest Service helped the county in all aspects of timber management, including harvest cutting. On behalf of the county, Forest Service employees programmed and supervised the cutting of over 5.6 million board feet from tract A. Receipts to Hood River County from the sale of this timber totaled more than \$84,800.

We know of no circumstances which would warrant the granting of relief to the county or for giving it ownership to land to which it never has been and is not now entitled. Hood River County would be unjustly enriched at the expense of the United States if relieved from liability for its actions. This special enrichment to Hood River County would be in addition to the benefits received by the State of Oregon from that part of tract B granted to it pursuant to its selection in lieu of school lands.

The State of Oregon was informed in 1894 that tract A was not subject to selection because it had been withdrawn for forest reserve purposes. This information was a part of the official records relating to the tract when the county first undertook to tax it and undertook to dispose of it by tax deed. All of this was a matter of public record when the timber was sold from it.

Although the Forest Service agreed by the cooperative agreement to manage the county's timber, and even though its local status records failed to show the tract as national forest land, its actions did not and should not serve to ripen in the county either legal or equitable ownership in the tract.

In addition, section 3 of the bill would provide for payments to the county of sums equaling revenues to the United States from timber sales from tract A since 1964. Since the error was discovered, tract A has been administered by the Forest Service as national forest land. The county was informed in 1963 that the tract is Federal land. It clearly has no valid claim or interest in receipts from timber sales made since then.

Other counties who have found themselves in relatively similar situations have not been given relief and benefits such as H.R. 914 would give. There is no reason for special treatment of Hood River County.

Forest Service officials have discussed with Hood River County various ways by which payments of its obligation might be made. The county desires to minimize the effect of the large liability upon its normal operations. One possible approach would be to withhold, on an installment basis, portions of "25 percent fund" payments from national forest receipts to which the county is entitled under the act of May 23, 1908. We will be glad to discuss this and other possible approaches with the county.



Union Calendar No. 371

91ST CONGRESS
2D SESSION

H. R. 914

[Report No. 91-833]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1969

Mr. ULLMAN introduced the following bill; which was referred to the Committee on the Judiciary

FEBRUARY 9, 1970

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

For the relief of Hood River County, Oregon.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That Hood River County, Oregon, is relieved of liability to
4 the United States in the amount of \$84,841.36 representing
5 an amount owed by such county to the United States Forest
6 Service, Department of Agriculture, for alleged timber tres-
7 pass arising out of timber sales from the land described in
8 section 2 of this Act during the period 1946 through 1961.

1 In the audit and settlement of the accounts of any certifying
2 or disbursing officer of the United States, credit shall be
3 given for amounts for which liability is relieved by this Act.

4 SEC. 2. The Secretary of the Interior is authorized
5 and directed to convey, by quitclaim deed, and without
6 monetary consideration, and within ninety days after the
7 date on which this Act is approved, to Hood River County,
8 Oregon, all right, title, and interest which the United States
9 may have in and to one hundred and sixty acres of land,
10 more or less, located in Hood River County which land is
11 more fully described as the northwest quarter of the northeast
12 quarter and the north half of the northwest quarter and the
13 southeast quarter of the northwest quarter of section 9,
14 township 1 south, range 8 east, of the Willamette Meridian.

15 SEC. 3. (a) The Secretary of the Treasury is author-
16 ized and directed to pay, out of any money in the Treasury
17 not otherwise appropriated, to Hood River County, Oregon,
18 a sum of money, which shall be determined by the Secre-
19 tary of Agriculture as provided in subsection (b) of this
20 section, in full settlement of all its claims against the United
21 States for the sale of timber by the United States Forest
22 Service from the land described in section 2 of this Act.

23 (b) The Secretary of Agriculture shall determine and
24 certify to the Secretary of the Treasury a sum of money
25 which equals the revenue received by the United States from

1 any sale of timber made by the United States Forest Service
2 after January 1, 1964, from the land described in section 2
3 of this Act.

4 SEC. 4. No part of the amount appropriated in section
5 3 of this Act in excess of 10 per centum thereof shall be
6 paid or delivered to or received by any agent or attorney on
7 account of services rendered in connection with this claim,
8 and the same shall be unlawful, any contract to the contrary
9 notwithstanding. Any person violating the provisions of this
10 section shall be deemed guilty of a misdemeanor and upon
11 conviction thereof shall be fined in any sum not exceeding
12 \$1,000.

13 *That Hood River County, Oregon, is relieved of all liability*
14 *to the United States for any amounts owed by such county to*
15 *the United States for amounts claimed by the United States*
16 *Forest Service, Department of Agriculture, for alleged timber*
17 *trespass arising out of timber sales during the period 1946*
18 *through 1961, inclusive, from the land described as follows:*

19 *One hundred and sixty acres of land, more or less, located*
20 *in Hood River County which land is more fully described as*
21 *the northwest quarter of the northeast quarter and the north*
22 *half of the northwest quarter and the southeast quarter of the*
23 *northwest quarter of section 9, township 1 south, range 8 east,*
24 *of the Willamette meridian.*

91ST CONGRESS
2^D SESSION

H. R. 914

[Report No. 91-833]

A BILL

For the relief of Hood River County, Oregon.

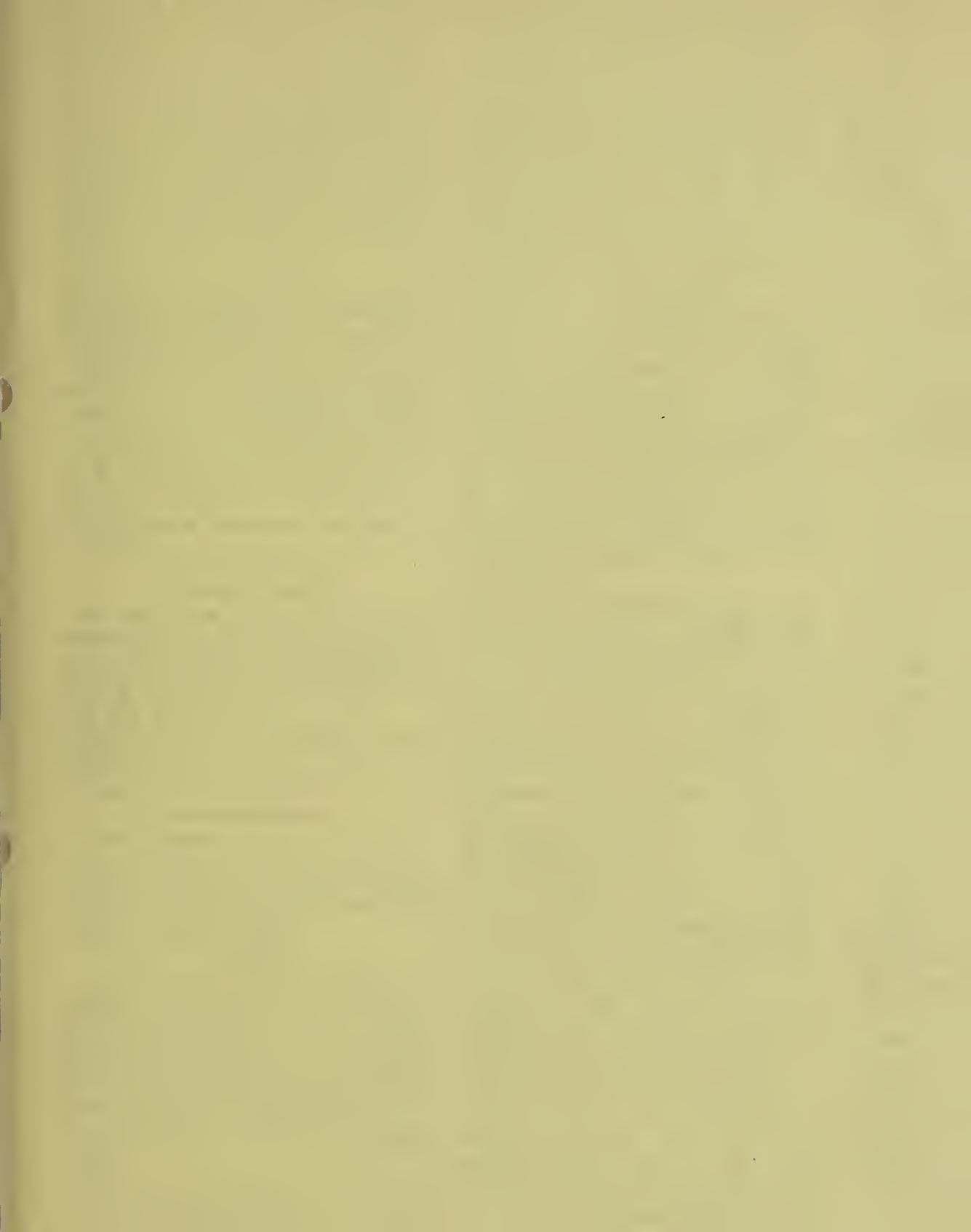
By Mr. ULMAN

JANUARY 3, 1969

Referred to the Committee on the Judiciary

FEBRUARY 9, 1970

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed



that they found no evidence of narcotic addicts, insanity, and so forth.

It must be kept in mind that this bill would allow the entry under parole into the United States or the possessions rather than an admission. Consequently, the subjects, if they enter U.S. territory, would have no legal status and would be continuously under the jurisdiction of the Immigration and Naturalization Service. After 5 years of physical presence their status could be adjusted retroactively to that of permanent resident to the date of initial entry. Of course, during this 5-year period any person could be deported if they came within one of the specified grounds for deportation.

Nevertheless, the more dangerous and detrimental grounds for deportation are not waived—convictions for crimes, immorality, and so forth, would be normally the subject of a record.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Ohio that the House suspend the rules and pass the bill H.R. 4574.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter in connection with the bill H.R. 4574.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HOOD RIVER COUNTY, OREG.

Mr. DONOHUE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 914) for the relief of Hood River County, Oreg., as amended.

The Clerk read as follows:

H.R. 914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Hood River County, Oregon, is relieved of all liability to the United States for any amounts owed by such county to the United States for amounts claimed by the United States Forest Service, Department of Agriculture, for alleged timber trespass arising out of timber sales during the period 1946 through 1961, inclusive, from the land described as follows:

One hundred and sixty acres of land, more or less, located in Hood River County which land is more fully described as the northwest quarter of the northeast quarter and the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 9, township 1 south, range 8 east, of the Willamette meridian.

The SPEAKER pro tempore. Is a second demanded?

Mr. SMITH of New York. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. DONOHUE) will be recognized for 20 minutes, and the gentleman from New York (Mr. SMITH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. DONOHUE).

Mr. DONOHUE. Mr. Speaker, as amended, this bill will relieve this Oregon county of liability for \$84,841.36, representing timber sale revenues over a 15-year period on a 160-acre tract of land subsequently held by the Government to be Federal land. The committee has deleted provisions which would have provided for a conveyance of the land to the county and for the payment of subsequent revenues from timber sales received by the United States.

Therefore, the amended bill would merely relieve Hood River County in Oregon of liability to pay the United States an amount equal to the money paid the county as proceeds of timber sales on these 160 acres of land \$84,841.36 which was considered by both the United States and the county to be part of the Hood River County Forest when the timber was cut in the period from 1946 through 1961. Upon further investigation of the title of the land, the United States asserted and established that title to the land had never passed from the United States.

A similar bill with the same amendment limiting relief to a relief of liability passed the House in 1968. During the 90th Congress testimony at a committee hearing established that prior to title questions being raised in private litigation, the county in good faith regarded itself the owner of the 160 acres of forest land. The county had regarded itself as the owner of the land for more than 40 years since the county had received a sheriff's deed to the property after delinquent tax foreclosure proceedings against the tract in 1922. The basis for the Government's determination that the land belonged to the Federal Government involved the discovery of an 1892 communication in the files of the Department of the Interior indicating that this particular property had been included in a large block of land that was intended for later designation as the Cascade Forest Reserve. This was based on the fact that on March 28, 1892, all of section 9 was withdrawn from entry under the public land laws for the purpose of creating the Cascade Forest Reserve.

This particular letter was dated a few months before the State of Oregon selected the 160 acres as "lieu" lands by filing indemnity selection list No. 226 on December 27, 1892. Hood River County traced its title from this selection, for the State conveyed the 160 acres to a private owner, Mr. Edward Jones, on January 2, 1893. As has been outlined above, the county subsequently acquired the land as the result of foreclosures of delinquent taxes which had accrued subsequent to its conveyance to private ownership and prior to 1922. The Government's position is, in substance, that notwithstanding the selection by the State, its subsequent conveyance to a private individual, and the acquisition of title by

tax foreclosure proceedings by the county, and the subsequent 40 years during which the county asserted its rights as owner of the land, the U.S. Government still had title to the land and further never parted with title to the property.

Prior to discovery of the question concerning title in the county, the Forest Service assisted the county in the management of this particular property along with more than 26,000 acres of the Hood River County forest lands. The Forest Service relied on county records in determining the title and boundaries of forest land subject to management. On the assumption that Hood River County was the owner of the 160 acre tract, the Forest Service, acting under contracts with the county, planned, supervised, and carried out on behalf of the county five separate sales of timber from the property between 1946 and 1961. The Hood River County received from those sales a total of \$84,841.36. The amount claimed by the United States is based on this payment to the county.

The inequity to which H.R. 914 is addressed arises out of this assertion of rights by the Federal Government in the light of the particular circumstances concerning title and ownership of this specific tract. As a practical matter, no one was aware of the technicalities of the title situation until late 1961, after Hood River County had been considered the owner of the property for over the 40 years which elapsed since the 1922 tax foreclosure. It is also clear that the Government acted after five timber sales had been made on that assumption by the U.S. Forest Service acting for Hood River County. The amended bill will grant relief which, as a practical matter, is unavailable through judicial proceedings. The claim of the Government against Hood River County arose under circumstances demonstrating complete good faith upon the part of Hood River County which treated the 160 acres as its own property for over 40 years after 1922.

The committee has further been advised that payment would impose a substantial economic hardship to Hood River County if the U.S. Government would force a payment of \$84,841.36. The total budget of this small county for the previous fiscal year was \$1,686,313, of which \$351,744 was raised from taxes imposed directly on its citizens and their property. A timber trespass judgment for \$84,841.36 would represent approximately 5 percent of Hood River County's total annual budget. Since any such judgment would have to be paid from additional tax revenue, a judgment for \$84,841.36 would mean a 1-year increase of almost 25 percent in the total direct taxes imposed on the citizens of Hood River County. If the judgment was for double damages—approximately \$169,000—this would represent 10 percent of the county's total annual budget, and a 1-year tax increase of almost 50 percent over the present level of taxation.

The bill, as amended by the committee, would relieve the county of the obligation to pay the United States the \$84,841.36 claimed by the Government but would not grant the other relief originally included in the bill. The bill, H.R.

914, as introduced would have also provided for a conveyance of the disputed 160 acres and would have further required a payment to the county of an amount equal to the money paid the United States as the result of sale of timber from the property since assertion of title by the Federal Government. The committee deleted the other provisions so that the bill does not alter the position of the parties as regards ownership of the land. As has been noted, the repayment would impose a heavy burden on the county and it is felt that the amended bill provides for an equitable adjustment of the matter and is fair in the light of all the circumstances.

In this connection it should be noted that the General Accounting Office in its report to the committee on the bill has indicated it would have no objection to relief as is now provided in the amended bill if it is determined that repayment would work such a hardship. Accordingly, it is recommended that the amended bill be considered favorably.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. DONOHUE. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I note the Department of Agriculture looks at this bill with a jaundiced eye. Was the committee not impressed with the statement by the Department of Agriculture as follows:

The State of Oregon was informed in 1894 that tract A was not subject to selection because it had been withdrawn for forest reserve purposes. This information was a part of the official records relating to the tract when the county first undertook to tax it and undertook to dispose of it by tax deed. All of this was a matter of public record when the timber was sold from it.

Mr. DONOHUE. Mr. Speaker, that was the information that was before the committee. The discovery that the land belonged to the United States and was never granted to the State of Oregon was not made until some time in the early part of the 1960's.

Mr. GROSS. But the report says, according to them, that is the Department of Agriculture, that the State of Oregon was informed in 1894 of this fact.

Mr. DONOHUE. In 1892 the State of Oregon selected certain forest land and in 1893 deeded this particular 160-acre tract to a private individual. However, the Department holds that several months before, the Federal Government had included this land as a part of a large tract which was reserved by the United States for the purpose of establishing the Cascade Forest Reserve. The communication to the State concerning that reserve is what the Department has referred to.

Mr. GROSS. The report also goes on to say:

This special enrichment to Hood River County would be in addition to the benefits received by the State of Oregon from that part of tract B granted to it pursuant to its selection in lieu of school funds.

Mr. DONOHUE. That was a provision relating to the original grant to the State of Oregon, but does the gentleman from Iowa not see what happened? The State

of Oregon, after it was granted this land, proceeded to sell it or deed it over to private individuals.

This particular tract was deeded to a family named Jones in 1893. They held it until sometime in 1922 when, due to their inability to pay taxes, the Hood River County took the land over under a tax deed.

They proceeded, with the assistance of our Forestry Service to log timber from it.

Private litigation concerning adjoining lands developed in some way or another in 1959 or 1960. Then, when as the result of inquiries from parties to that litigation the Federal Government searched the title, they found that title to this particular tract had never passed to the State of Oregon. The Government therefore held that the State could not validly deed it to this private individual.

Mr. GROSS. There is no question, is there, that the State or the county, or both, profited from the use of this timberland? Is there any question about that?

Mr. DONOHUE. There is not any question, but in view of the fact that it was done innocently by the county, thinking that it had clear legal title to the land.

Mr. GROSS. All right; but they have profited thereby.

I am sorry that this bill is up under a suspension of the rules procedure, by which it cannot be amended, because I know of no reason why the county or the State, or both, should not over a period of time make orderly payments on this \$84,000.

Mr. DONOHUE. The bill, as originally presented to the Congress and referred to the Judiciary Committee, also provided that since the United States took back the land and logged timber from it and derived approximately \$103,000 of benefit, that amount would be paid to the Hood River County. Also it was originally provided that the 165 acres be deeded to the Hood River County.

Mr. GROSS. The gentleman certainly would not penalize the county for having its hand out and its hat, too, if they could get it. But I am glad the committee did not bring out a bill to provide that the Federal Government pay them \$103,000.

What I believe the county ought to do, since they got the benefit from this land, is to make orderly payments over a period of years, if necessary, and pay the Federal Government the \$84,000.

Mr. DONOHUE. If the gentleman will permit me to suggest, it was brought out in our hearings that in the event they were required to pay this money back to the United States, because of the narrow tax base, it would practically bankrupt the county.

Mr. GROSS. That is pretty hard to believe, that a county in the great State of Oregon, a whole county, would be bankrupt by paying, say, \$5,000 or \$10,000 a year over a period of years on an obligation it owes the U.S. Government. I am just not about to absorb that.

Mr. DONOHUE. I think the premise may be rather sound, if they knowingly went on this tract and logged this timber, but they did it most innocently, with

the impression and idea that they owned the land. They acquired it from this Jones family because they had failed to pay their taxes.

Mr. GROSS. But, having found out they did not own it—

Mr. DONOHUE. They did not find that out, may I suggest to the gentleman, until sometime early in the 1960's.

Mr. GROSS. The gentleman means to say that Hood River County could not over a period of years pay this? Is there no other industry but timber in that county? Do they raise any apples or fruit or anything else?

Mr. DONOHUE. I might suggest to the gentleman that the U.S. Government evidently was of the impression that that property was owned by the Hood River County, because with the assistance of the U.S. Forest Service they logged the timber from the tract.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. DONOHUE. I am pleased to yield to the gentleman from Oregon.

I would like to reason with the gentleman from Iowa.

Mr. Speaker, today we are considering H.R. 914, for the relief of Hood River County, Oreg., from Forest Service claims for alleged timber trespass. I appreciate the opportunity to express my support for this bill, because it is most important to the people of a very fine community in my district. I would like to present a summary of their problem at this time.

Through the error of the U.S. Land Office and the State of Oregon, a 160-acre tract of public timberland in Hood River County was deeded to a private citizen in 1894. Because of unpaid taxes, title to this tract was transferred to the county in 1922. For over 40 years, all parties assumed that Hood River County held legal title to the tract. During that period timber sales were made from the tract in the value of \$84,841.36 and the proceeds were received by the county.

In 1962 the error of 1894 was discovered and the Forest Service is now pressing claims against the county in the amount of \$84,841.36 for "timber trespass." This is the amount of money received from timber sales made when all parties assumed that Hood River County owned the timber. I strongly urge Congress to consider the inequity of this claim since the Forest Service, the State of Oregon, and all others considered this tract non-Federal land for over 70 years. I also ask you to consider the financial strain this claim would place on the people of this area.

Hood River County has a population of under 15,000 people and an assessed valuation of only \$18 million. The economy of this county is entirely dependent on agriculture, lumber, and recreation, and the loss of 160 acres of harvestable timber coupled with the burden of repaying nearly \$85,000 in past revenues would be a serious handicap to their economic well-being. This county has been declared an economically depressed area in past years, and has suffered from high unemployment. Therefore, you can understand why this legislation is so important to the county.

As you may know, the Department of Agriculture has issued unfavorable reports on this legislation, although the General Accounting Office has no objection to its enactment. The Department mainly objected to the features of sections 2 and 3 of the original bill, which the House Judiciary Committee has removed from the measure we are considering today. Sections 2 and 3 would have returned this tract to the county and provided for the repayment of all funds received from timber sales made by the Forest Service since 1963. However, the amended measure which I am urging that you approve today, would simply relieve the county from paying the \$84,841.36 claim for "timber trespass." I consider this a reasonable compromise.

I now urge my colleagues to consider the equity of this legislation, and to give it their fair consideration and approval.

I would like to defer to the other gentleman from Iowa (Mr. KYL) who served on the Public Land Law Review Commission. The Commission made an intensive study of this whole problem, and this particular case came under the purview of their study.

Would the gentleman from Iowa (Mr. KYL) be interested in relating his information, if the gentleman from Massachusetts would yield to him on this particular matter?

Mr. DONOHUE. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Speaker, the case which the House reviews today is one of many rising primarily in the public land States, but not restricted to them. Broadly speaking, most such instances involve in varying degree a kind of trespass or adverse possession. There is no general manner in which administrative agencies can solve such problems and, therefore, the specific matter comes before the Congress.

It is a plain matter of fact that very honest disputes between the Federal Government and private individuals or lower governmental subdivisions do occur. It is important to note that these disputes in many, if not most, cases, do not start with any intentional wrongdoing. For instance, a primary reason for the problems is that in the less-heavily populated areas where there are vast areas of unoccupied lands, actual metes and bounds property descriptions are frequently poor or nonexistent.

Equity demands that the Congress take some action in many such cases, and I believe the matter in which we are involved today is one such case demanding action. Without basic legislation for settling these disputes, administering agencies do become highly technical in preserving the Federal sovereignty. The agencies cannot be blamed for their actions because, under traditional sovereign doctrine, this is their responsibility. It seems to me that the Congress must ultimately consider basic general law to assist the individual or governmental subdivision in its disputes against the Federal Government. Under present interpretations, adverse claimants have no use of such devices as equitable estoppel

or laches. The Government, in brief, is not bound by acts of its agents.

It is at least interesting to note that the sovereign immunity doctrine has no constitutional or statutory basis. Nonetheless, the doctrine is established, and, in specific cases, the Congress rather than the courts must seek equity.

In the Hood River County case before us, there is no provable mischief or malice on the part of the county. The adverse possession over a long period of time was in good faith. There was apparently a documented record of private ownership. The county acquisition followed normal, legal means. The county's claim to the land was further substantiated by cooperative agreements with the Federal Government. For a very long time, the county thought it owned the land and there was no expression or action to the contrary.

For these reasons, I believe we should pass this legislation.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. KYL. I yield to the gentleman.

Mr. GROSS. Let nothing I have said be construed to mean that I accuse anyone within the State government of Oregon or the county of Hood River in the State of Oregon as having done something wrong or resorted to some malicious practice.

Mr. KYL. I understand.

Mr. GROSS. I do not do that at all.

The gentleman says that the county is unable to pay to the Federal Government \$84,000.

Does the gentleman know the county's budget?

Mr. KYL. I would have to yield to the gentleman from Oregon (Mr. ULLMAN) for an answer to that.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. DONOHUE. I yield to the gentleman from Oregon.

(Mr. ULLMAN asked and was given permission to revise and extend his remarks.)

Mr. ULLMAN. Very briefly, Hood River County has a population of under 15,000 people. It has an assessed valuation of only \$18 million. It is entirely dependent upon agriculture and a small amount of timber and recreation. The loss of 163 acres of harvestable timber, coupled with the burden of repaying \$84,000 in basic revenue, would represent an extremely serious handicap to this county. It has been declared an economically depressed area. For most of the last 20 years it has suffered from very high unemployment on top of that. The gentleman has made the point that if this were a matter between two private individuals, there would not be any questions about it. They had adverse possession. The law would be completely on the side of Hood River County. They would have complete access to the court and any court in the country would rule for the county.

The only reason we have kept this before the Congress is the fact that we do not have the same rights and privileges under the law as a private individual would have and, therefore, we have to come to the Congress because the Congress is the only recourse.

All we are asking here is what any court in the land would grant if this were a private case.

I think the gentleman is a very reasonable gentleman and if he thoroughly understood this case he would say that we are absolutely right—that these people should have justice.

Mr. GROSS. Mr. Speaker, if the gentleman from Massachusetts will yield further, with all due respect to the gentleman from Oregon, I am not interested in a hypothetical case as to what happens between two individuals; I am interested in the facts as they concern this case and that is all.

Mr. ULLMAN. Mr. Speaker, if the gentleman from Massachusetts will yield further, reference has been made to the report by the Department of Agriculture. The Department's objection was primarily to some additional features that were in the bill. In the original bill this asked for a return of this 160 acres to the county and the reimbursement for whatever timber was sold since 1962 when the revelation was made of the fact that they do not own it. That is primarily what the objection is about. However, it is very interesting to note that the General Accounting Office, an arm of the Congress, has no objection to the bill.

Mr. Speaker, I think in all equity the gentleman would agree that this is a matter of basic equity.

I appreciate very much the remarks of the gentleman from Iowa (Mr. KYL), because the Public Land Law Review Commission has found this to be an extremely serious problem in hundreds of thousands of cases across the country.

I think that he as a member of that very important Commission, being an expert on this, has made this statement. I would also say the gentleman from Pennsylvania (Mr. SAYLOR), who I think has been on the Commission, has studied this matter too, and I would like to hear what he has to say on it.

Mr. SAYLOR. Mr. Speaker, will the gentleman yield?

Mr. DONOHUE. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. Mr. Speaker, I want to say that this case points up a very serious problem, not just alone in Hood County, Oreg., but you can duplicate this in almost every western State. The thing that disturbs me is that several years ago at the instance and request of a number of Members of Congress, the Committee on the Judiciary reported out a similar bill in southwestern California, and the then President vetoed it because of the precedent that it set.

I am afraid that if we move in these cases on a piecemeal basis we may be asking for a Presidential veto if President Nixon follows the same pattern that his predecessor did in the case in California.

The SPEAKER pro tempore. The gentleman from Massachusetts has consumed 18 minutes of his total time.

Mr. DONOHUE. Mr. Speaker, I might suggest to the gentleman from Pennsylvania that the purport of this bill, as amended, is not to give Hood County anything, in the way of title to the dis-

puted tract. It is merely relieving them of \$84,000-plus, because of their economic inability to meet that obligation which was all brought about most honestly and most innocently. Certainly if there was ever a case of equity in my opinion, something that our good President, as a good lawyer, should and will recognize, it is this case.

Mr. SAYLOR. Mr. Speaker, I might say to my colleague that, I appreciate the title problems involved in this case the equities are all with the county, but this is not a case between individuals, so unfortunately individual equity does not apply. All I can say is that if we pass this I am afraid that the gentleman's committee is going to be besieged with other cases from the West from other Members who have a similar situation.

Mr. DONOHUE. Mr. Speaker, the gentleman can be assured, may I say to the gentleman, that such cases will be considered individually on their merit, and if they are as meritorious as this one, I know that our committee will treat them accordingly.

Mr. KYL. Mr. Speaker, will the gentleman yield further?

Mr. DONOHUE. I yield further to the gentleman from Iowa.

Mr. KYL. Mr. Speaker, there are some rather ridiculous aspects to a case of this nature. We are talking about title to 160 acres of land. I would ask the gentleman from Pennsylvania (Mr. SAYLOR), if it is not true that the Federal Government could transfer to Hood County, or to any city there, 160 acres of land, without cash, if it were to be used for recreational or school purposes?

Mr. SAYLOR. Mr. Speaker, if the gentleman will yield further, that is correct. They could not only transfer 160 acres, they could transfer 640 acres every year.

Mr. KYL. Each year.

Mr. SAYLOR. That is correct, if they use it for recreational purposes.

Mr. KYL. Mr. Speaker, if the gentleman will yield further, we face a most difficult situation in the basic question that is involved here. The Department of Defense are almost obligated to give negative responses on some kind of requests; they become overly involved, they become overly technical in the point of law, because of the complete acceptance—

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired. The Chair recognizes the gentleman from New York (Mr. SMITH).

(Mr. SMITH of New York asked and was given permission to revise and extend his remarks.)

Mr. SMITH of New York. Mr. Speaker, I yield myself such time as I may require.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New York. Mr. Speaker, I will yield to the gentleman from Iowa in just a moment.

Mr. Speaker, I rise in support of the bill H.R. 914, and I want to associate myself with the remarks of the gentleman

from Iowa (Mr. KYL), and the gentleman from Oregon (Mr. ULLMAN), and the gentleman from Massachusetts (Mr. DONOHUE).

Now I will be happy to yield to the gentleman from Iowa.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman.

Mr. KYL. I would like to conclude with this one thought about the difficulty presented here. The departments do become overly technical and they are obligated to do so because of our utter subservience to a complete sovereign immunity which prevents any individual or any locality in a situation just like this from finding or obtaining any equity through the courts. They have to come to the Congress to get this equity.

The gentleman from Pennsylvania spoke about a case which has been subject to veto. It is a case in which a group of people living along the Colorado River in the State of California thought they owned the land. They have title to the land, they paid for the land. They have title insurance on the titles they hold on the land. Suddenly, the Federal Government comes to them and says:

"This land is the result of erosion of the Colorado River and therefore the land belongs to the U.S. Government and you do not own it."

Those people cannot sue the Government. They cannot employ any of the usual procedures that are permitted in cases of an individual against an individual. There is no way to settle such a problem except by congressional action and we are always going to have to face this threat of vetoes on the basis of sovereign immunity and sovereign domination. But I think we do have to make an attempt sometime to try to do equity in these situations.

Mr. SMITH of New York. I thank the gentleman.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman.

Mr. HUNGATE. As I understand the original bill, and the gentleman from New York can correct me if I am in error please, the original bill sought payment for timber that had been cut by the U.S. Government in excess probably of \$100,000 and it sought the restoration of 160 acres, of the title, and sought relief from an \$84,000 claim that the Government made on the county.

There were these things and the committee decided not to pay them the \$100,000 they were seeking for timber on this land and the committee decided not to give them title to the 160 acres. The committee seeks to relieve them of the liability of \$84,000 which represents, and I think this would represent about 25 percent a year of the amount of taxes they would get. In other words, it is a substantial sum and represents a substantial sum for this county. I want to make this clear—you cannot get any court in the land and there is no legal claim and that is why we have to have the Congress to act in matters of equity.

That is what is being appealed to and what really appealed to me, the equity involved, to see that the Government of the United States acted so far as the timber sales that were made on the assumption by the U.S. Forest Service acting for the Hood River County, that they owned the land.

If we ever had an opportunity to assert our claim that we assist people to come to the U.S. Government and if we do not see that equity is done here, then you are not allowing anything.

Mr. SMITH of New York. I thank the gentleman.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Oregon.

Mr. ULLMAN. I would just like to add along with the points I have made that all of the money involved here was collected while the timber was under the management of the Federal Government under contract during 1945 and 1955 and they renewed the agreement to maintain the land for the county. They held these timber sales and this amount of money was collected and all during the time the Federal Government managed the land for the county on the assumption that the county owned the land.

The SPEAKER. The question is on the motion of the gentleman from Massachusetts that the House suspend the rules and pass the bill H.R. 914, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. STAGGERS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 38]

Addabbo	Edwards, La.	Meeds
Anderson, Ill.	Evins, Tenn.	Mizell
Anderson, Tenn.	Fallon	Moorhead
Ashley	Foley	Morton
Aspinall	Fulton, Tenn.	Moss
Baring	Goldwater	Murphy, N.Y.
Barrett	Grover	Ottlinger
Berry	Gubser	Pettis
Boland	Hastings	Powell
Boiling	Hawkins	Preyer, N.C.
Brock	Hébert	Rees
Brotzman	Jones, Ala.	Reid, N.Y.
Brown, Ohio	Kastenmeier	Rogers, Colo.
Buchanan	Keith	Rosenthal
Bush	Kirwan	Ruppe
Button	Kluczynski	Sisk
Celler	Leggett	Snyder
Chisholm	Lennon	Springer
Clark	Lukens	Steiger, Wis.
Clay	McCarthy	Taft
Cohelan	McDonald,	Teague, Calif.
Conyers	Mich.	Teague, Tex.
Dawson	McEwen	Thompson, Ga.
Diggs	Macdonald,	Tunney
Downing	Mass.	Vander Jagt
Dwyer	Mahon	Watkins
Edmondson	Mailillard	Wright
	Mann	

HOOD RIVER COUNTY, OREG.

JUNE 26, 1970.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 914]

The Committee on the Judiciary, to which was referred the bill (H.R. 914) for the relief of Hood River County, Oreg., having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to relieve Hood River County, Oreg., of all liability to the United States, based on the proceeds of timber sales from 160 acres of land considered to have been a part of the Hood River County Forest in the period 1946 through 1961, which land was subsequently held by the United States to be Federal land.

STATEMENT

In its favorable report on the bill, the House Judiciary Committee set forth the facts of the case as follows:

During the 90th Congress a similar bill, H.R. 3165, was favorably reported and passed the House on June 3, 1968. That bill was the subject of a subcommittee hearing on Wednesday, April 24, 1968. At that time, representatives of Hood River County, Oreg., and of the Forest Service of the Department of Agriculture appeared and testified concerning the circumstances which gave rise to the claim by the United States against the county. At the hearing a map was sub-

mitted which shows the 160-acre tract to be immediately south and east of a tract of forest land which is part of the Hood River County Forest. The 160-acre tract was designated a part of the Hood River County Forest in September of 1950 and was managed as a part of the county forest. It was discovered in 1961 that there was a question concerning the county's ownership of the tract. The report of the Department of Agriculture indicates that at that time, the State's title to this particular land was challenged in private litigation and, in connection with that litigation, inquiries were made to the Bureau of Public Land Management concerning the status of the tract. These inquiries resulted in a determination by the Government that the land was a part of the Mount Hood National Forest. The Forest Service notified the Hood River County Commissioners of this determination in November of 1963.

At the hearing, the representatives of the county testified that prior to these developments, the county, in good faith, regarded itself the owner of the 160 acres of forest land. The county had regarded itself as the owner of the land for more than 40 years since the county had received a sheriff's deed to the property after delinquent tax foreclosure proceedings against the tract in 1922. The basis for the Government's determination that the land belonged to the Federal Government involved the discovery of an 1892 communication in the files of the Department of the Interior indicating that this particular property had been included in a large block of land that was intended for later designation as the Cascade Forest Reserve. This is the action referred to in the Department of Agriculture report when it states that on March 28, 1892, all of section 9 was withdrawn from entry under the public land laws for the purpose of creating the Cascade Forest Reserve.

This particular letter was dated a few months before the State of Oregon selected the 160 acres as "lien" lands by filing Indemnity Selection List No. 226 on December 27, 1892. Hood River County traced its title from this selection for the State conveyed the 160 acres to a private owner, Mr. Edward Jones, on January 2, 1893. As has been outlined above, the county subsequently acquired the land as the result of foreclosure of delinquent taxes which had accrued subsequent to its conveyance to private ownership and prior to 1922. The Government's position is, in substance, that, notwithstanding the selection by the State, its subsequent conveyance to a private individual, and the acquisition of title by tax foreclosure proceedings by the county, and the subsequent 40 years during which the county asserted its rights as owner of the land, the U.S. Government still had title to the land and further never parted with title to the property.

In the report of the Department of Agriculture, it stated that prior to discovery of the question concerning title in the county, the Forest Service assisted the county in the management of this particular property along with more than 26,000

acres of the Hood River County forest lands. At the hearing on the bill, in the last Congress the representative of the Forest Service stated that at that particular time, the Forest Service relied on county records in determining the title and boundaries of forest land subject to management. On the assumption that Hood River County was the owner of the 160-acre tract, the Forest Service, acting under contracts with the county, planned, supervised, and carried out on behalf of the county five separate sales of timber from the property between 1946 and 1961. The Hood River County received from those sales a total of \$84,841.36. The committee is advised that the amount claimed by the United States is based on this payment to the county.

The committee was further advised that the Government also in 1965 claimed title to the property and has sold timber off the property in 1965-67 for which it has received some \$102,000 in revenues. These revenues are, of course, not involved in the amended bill.

The inequity to which H.R. 914 is addressed arises out of this assertion of rights by the Federal Government in the light of the particular circumstances concerning title and ownership of this specific tract. As a practical matter, no one was aware of the technicalities of the title situation until late 1961, after Hood River County had been considered the winner of the property for over the 40 years which elapsed since the 1922 tax foreclosure. It is also clear that the Government acted after five timber sales had been made on that assumption by the U.S. Forest Service acting for Hood River County. The amended bill will grant relief which, as a practical matter, is unavailable through judicial proceedings. The claim of the Government against Hood River County arose under circumstances demonstrating complete good faith upon the part of Hood River County which treated the 160 acres as its own property for over 40 years after 1922.

The testimony at the hearing indicated that Hood River County, in a court proceeding, probably could not successfully defend against the timber trespass claim of the U.S. Government based on the five timber sales between 1946 and 1961, and therefore could not legally establish its title to the subject property as against the U.S. Government.

The committee has further been advised that payment would impose a substantial economic hardship to Hood River County if the U.S. Government would force a payment of \$84,841.36. The total budget of this small county for the previous fiscal year was \$1,686,313, of which \$351,744 was raised from taxes imposed directly on its citizens and their property. A timber trespass judgment for \$84,841.36 would represent approximately 5 percent of Hood River County's total annual budget. Since any such judgment would have to be paid from additional tax revenue, a judgment for \$84,841.36 would mean a 1-year increase of almost 25 percent in the total direct taxes imposed on the citizens of Hood River County. If the judgment was for double damages (approximately \$169,000), this

would represent 10 percent of the county's total annual budget, and a 1-year tax increase of almost 50 percent over the present level of taxation.

The bill, as amended by the committee, would relieve the county of the obligation to pay the United States the \$84,841.36 claimed by the Government but would not grant the other relief originally included in the bill. In the 90th Congress identical amendments were made to the bill H.R. 3165 and the bill passed the House so amended on June 3, 1968. The bill H.R. 914, as introduced in the current Congress, would have also provided for a conveyance of the disputed 160 acres and would have further required a payment to the county of an amount equal to the money paid the United States as the result of sale of timber from the property since assertion of title by the Federal Government. The committee deleted the other provisions so that the bill does not alter the position of the parties as regards ownership of the land. As has been noted, the repayment would impose a heavy burden on the county and it is felt that the amended bill provides for an equitable adjustment of the matter and is fair in the light of all the circumstances which have been detailed in this report. While the Department of Agriculture has questioned relief, the committee feels the amended bill meets most of the Department's objections.

In this connection it should be noted that the General Accounting Office in its report to the committee on the bill has indicated it would have no objection to relief as is now provided in the amended bill if it is determined that repayment would work such a hardship. Accordingly, it is recommended that the amended bill be considered favorably.

The committee, after a review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 914, without amendment.

Attached hereto and made a part hereof are (1) a letter dated September 11, 1969, from the Comptroller General, and (2) a letter dated October 11, 1969, from the Department of Agriculture.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., September 11, 1969.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reference to your letter of August 4, 1969, requesting our views on H.R. 914.

The bill provides for relief of Hood River County, Oreg., from Forest Service claims of \$84,841.36 arising from the payment, by the Forest Service to the county, of receipts obtained from timber sold from lands erroneously thought to belong to the county but which were found to be owned by the Federal Government. The lands involved, a 160-acre tract of forest land located near Lost Lake in Hood River County, were considered a part of the Hood River County Forest. Timber management activities conducted by the county on this tract

were programed and carried out by Forest Service employees under cooperative agreements. An inquiry by a land speculator in 1961 as to the status of these lands resulted in a Forest Service investigation which disclosed that the lands were, in fact, national forest lands.

H.R. 914 also provides for the transfer, without monetary consideration, of all right, title, and interest which the United States may have in the 160 acres of land to the county and for payment to the county of receipts obtained from timber sales made subsequent to January 1, 1964. H.R. 914 provides for the Secretary of the Interior to transfer U.S. title because, although the lands in question are administered and managed by the Forest Service, the land status records of all lands which were part of the public domain reside in the Department of the Interior and the authority to convey title of such lands is vested in the Secretary.

The following information on the background of the proposed legislation was obtained from Forest Service files and discussions with agency officials:

EVENTS RESULTING IN MISUNDERSTANDING OF LANDOWNERSHIP

The lands involved are described as the northwest quarter of the northeast quarter and the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 9, township 1 south, range 8 east, of the Willamette meridian. Forest Service records show that lands of the same description but located in range 8 west instead of range 8 east were selected as school indemnity lands by the State of Oregon on list No. 226, filed December 27, 1892, and approved, except for the north half of the northwest quarter, under clear list No. 9 on January 29, 1894. There is no record of an application for patent to the lands located in range 8 east or of a patent being issued.

Forest Service records show that the State may have intended to select range 8 east instead of range 8 west, the lands approved under clear list No. 9. It appears that the State wrote to the Department of the Interior in 1894 questioning a possible mixup in selection of lands under list No. 226 and clear list No. 9. The Acting Commissioner of the General Land Office (now Bureau of Land Management), by letter dated May 24, 1894, advised the register and receiver, Oregon City, Oreg., that the lands in range 8 east were within the limits of the Cascade Forest Reservation. The Acting Commissioner wrote that these lands had been temporarily withdrawn as a portion of the Cascade Forest Reserve by office letter dated March 28, 1892, and therefore were not available for selection on December 27, 1892, the date list No. 226 was filed. The lands were subsequently withdrawn by Executive order dated September 28, 1893, which superseded the temporary withdrawal and officially established the Cascade Forest Reserve. The name of the forest reserve was changed from Cascade to the Oregon National Forest and was further changed to Mt. Hood National Forest by Executive Order No. 3944, on July 24, 1924.

Forest Service records show that, in November 1892, Edward G. Jones, of Wasco County, now Hood River County, filed an application for the lands located in range 8 east with the State of Oregon in the event the State obtained the property under school indemnity provisions. As discussed previously, the record shows that the State did not

obtain title to the lands in question. Nevertheless, on January 2, 1893, the State sold the lands to Mr. Jones. The Forest Service believes that, in preparing the application which he filed with the State in November 1892, Mr. Jones may have inadvertently specified the wrong range (range 8 east instead of range 8 west) and this passed unnoticed by the State.

On January 31, 1922, Hood River County filed a tax foreclosure on the lands located in range 8 east, and on December 5, 1922, a tax deed was issued to Hood River County. On September 20, 1951, this land was designated as a part of the Hood River County Forest. The timber on this tract was managed as a part of the county forest until 1961, when an inquiry on February 14, 1961, by Mr. William W. Deardorff, president of Western Tree Farms, Inc., as to the status of these lands disclosed that the lands had always been in national forest ownership.

FOREST SERVICE CLAIMS AGAINST THE COUNTY

Timber management activities conducted by the county on the lands in question were programed and carried out by the Forest Service employees under formal cooperative management agreements with the county. The 160 acres of land in question were a part of some 26,700 acres located in Hood River County that have been so managed.

Five timber sales were made by the county on the tract in question during the period 1946-61. In each case, the timber sale was arranged and managed for the county by the Forest Service. A total of 5,350,940 board feet of timber were cut in the five sales with receipts of \$84,841.36 going to the county.

Forest Service records show that the receipts were comprised of the following items:

Total stumpage receipts from five timber sales.....	\$71, 672. 13
Collected from purchasers of timber and placed in special accounts for slash disposal and timber stand improvement.....	¹ 7, 649. 52
Collected from purchasers of timber for the county bridge fund.....	¹ 5, 519. 71
Total.....	\$4, 841. 36

¹ None of the receipts were spent on the 160-acre tract in question.

We were advised by Forest Service personnel that information pertaining to timber sales made on the lands in question subsequent to discovery in 1961 of national forest ownership is not available in Washington, D.C. Section 3(b) of the bill provides for payment to the county of revenue received from the sale of timber subsequent to January 1, 1964. In this connection, Forest Service officials advised us that, to the best of their knowledge, no sales were made between 1961 and January 1, 1964. They stated, however, that the Pacific Northwest region will be requested to provide to the headquarters office information on sales made subsequent to 1961.

COUNTY NOTIFIED OF TITLE DEFECT

The forest supervisor of the Mount Hood National Forest notified the county commissioners, by letter dated November 12, 1963, that the Forest Service investigation into the legal ownership of the lands in question indicated that the State had erroneously sold such lands to

Mr. Jones on January 2, 1893, in the belief that the State had applied for such lands as indemnity land. The forest supervisor wrote that, in accordance with advice received from the Forest Service Washington office, he wanted to give appropriate notice to county and State agencies that the lands in question legally appeared to be national forest land and subject to national forest administration.

County officials were contacted further by the forest supervisor on October 18, 1965, and were given a verbal report on the volume and value of the timber cut. He advised them that it would be necessary for the Forest Service to bill the county for \$84,841.36. County officials suggested the possibility of a land transfer as a means of settling the payment and also inquired as to whether it would be permissible to pay the amount in installments because of the severe hardship on the county to make payment.

The forest supervisor advised county officials by letter dated November 16, 1965, that a schedule of payments could be arranged. He also suggested that the case could be settled by a transfer of land from the county to the Forest Service, provided the following conditions were met:

1. Hood River County would elect to settle the claim by a transfer of land.
2. Hood River County has the authority to deed its land to the United States for this purpose.
3. The U.S. Department of Justice would approve the proposed land transfer as a settlement of the claim.

The forest supervisor also advised these officials that he would delay further action until he was contacted by them.

Forest Service records show that, in mid-1966 there was no progress to report on the case. By letter dated July 12, 1966, the Washington office suggested to a regional forester an additional means of settling the agency's claim against the county. The Washington office proposed, if the county were willing, to make withholdings on an installment basis over a period of years from the 25-percent funds returned to the State and county from Federal timber sales made in the State. A stated amount agreed to by the county would be withheld from the amount normally given to the county.

About the same time, however, the county board of commissioners requested introduction of legislation which would waive any claim of the U.S. Government against the county for timber trespass on the lands in question and clear the county's title to it by granting all right, title and interest of the U.S. Government in the lands to the county.

Generally, we have not favored the enactment of private relief legislation on behalf of debtors who are financially able to repay their obligations. If however, your committee feels that the facts and circumstances in this case create a hardship on the county which should be alleviated by the relief legislation now proposed there would, of course, be no objection on our part. Whether the land should be conveyed to the county by quitclaim deed without monetary consideration is a matter of policy for determination by the Congress and one on which we express no opinion.

Sincerely yours,

R. F. KELLER,
Acting Comptroller General of the United States.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., October 11, 1969.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: As you asked, here is our report on H.R. 914, a bill "For the relief of Hood River County, Oregon."

H.R. 914 concerns timber cutting by Hood River County, Oreg., on certain described lands that are a part of the Mt. Hood National Forest. The bill would (1) relieve Hood River County of liability for the trespass; (2) authorize the Secretary of the Interior to convey all right, title, and interest of the United States in the lands involved, comprising 160 acres, to Hood River County; and (3) authorize the Secretary of the Treasury to pay to Hood River County a sum equaling the revenue received by the United States for timber sales from the tract since January 1, 1964.

For the reasons discussed in the attachment to this letter we recommend that H.R. 914 not be enacted.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

CLIFFORD M. HARDIN,
Secretary of Agriculture.

Enclosure.

USDA COMMENTS ON H.R. 914

The tract to which H.R. 914 applies lies within section 9, township 1, south, range 8 east, Willamette principal meridian. We will refer to this tract as "Tract A."

Tract A was originally held by the United States as a part of the public domain. On March 28, 1892, the above-described section 9, including tract A, was withdrawn from entry under the public land laws for the purpose of creating the Cascade Forest Reserve (now the Mount Hood National Forest).

Subsequently on December 27, 1892, the State of Oregon undertook to select 160 acres of land in lieu of certain school lands to which it was entitled under the public land laws. The selected tract (we will refer to it as "Tract B") had a description identical to that for tract A, except the State's selection described it as lying within section 9, township 1 south, range 8 west.

The State of Oregon apparently believed it had selected tract A, lying within range 8 east, for it purported to transfer its interest in tract A to Mr. Edward Jones on January 2, 1893.

On January 29, 1894, the General Land Office approved 80 acres of the State's selection of tract B. This part of tract B thus became State land. On April 9, 1894, the General Land Office canceled the selection of the remaining 80 acres of tract B, because that part had been patented in 1889 pursuant to a homestead entry.

After it received the approval of the selection of a portion of tract B, the State of Oregon sought to have it canceled and to substitute tract A therefor. On May 24, 1894, the Acting Commissioner of the

General Land Office wrote the register and receiver in Oregon City, Oreg., and informed him that this could not be done. The Acting Commissioner also pointed out that tract A had been withdrawn as a part of the Cascade Forest Reservation in March 1892, and was thus not subject to selection by Oregon when it filed its selection of tract B in December 1892.

Hood River County subsequently treated tract A for taxing purposes as non-Federal land. In January 1922, the county filed a tax foreclosure on the tract, and in December 1922, a tax deed was issued to it. During the period 1946-61, the county made five timber sales from this tract.

In September 1951, tract A was designated by the county as a part of the Hood River County Forest. It was managed as a part of the county forest until the early 1960's. At that time the State's title to tract A was challenged in private litigation. In connection with this litigation, inquiries were made to the Bureau of Land Management regarding the status of this tract. These revealed that tract A was part of the Mount Hood National Forest. The Forest Service notified the Hood River County Commissioners of this status in November 1963.

Before Hood River County's error was discovered, the Forest Service assisted the county in the management of timber on some 26,700 acres of the Hood River County Forest lands, which included tract A. Under cooperative agreement the Forest Service helped the county in all aspects of timber management, including harvest cutting. On behalf of the county, Forest Service employees programed and supervised the cutting of over 5.6 million board feet from tract A. Receipts to Hood River County from the sale of this timber totaled more than \$84,800.

We know of no circumstances which would warrant the granting of relief to the county or for giving it ownership to land to which it never has been and is not now entitled. Hood River County would be unjustly enriched at the expense of the United States if relieved from liability for its actions. This special enrichment to Hood River County would be in addition to the benefits received by the State of Oregon from that part of tract B granted to it pursuant to its selection in lieu of school lands.

The State of Oregon was informed in 1894 that tract A was not subject to selection because it had been withdrawn for forest reserve purposes. This information was a part of the official records relating to the tract when the county first undertook to tax it and undertook to dispose of it by tax deed. All of this was a matter of public record when the timber was sold from it.

Although the Forest Service agreed by the cooperative agreement to manage the county's timber, and even though its local status records failed to show the tract as national forest land, its actions did not and should not serve to ripen in the county either legal or equitable ownership in the tract.

In addition, section 3 of the bill would provide for payments to the county of sums equaling revenues to the United States from timber sales from tract A since 1964. Since the error was discovered, tract A has been administered by the Forest Service as national forest land.

The county was informed in 1963 that the tract is Federal land. It clearly has no valid claim or interest in receipts from timber sales made since then.

Other counties who have found themselves in relatively similar situations have not been given relief and benefits such as H.R. 914 would give. There is no reason for special treatment of Hood River County.

Forest Service officials have discussed with Hood River County various ways by which payments of its obligation might be made. The county desires to minimize the effect of the large liability upon its normal operations. One possible approach would be to withhold, on an installment basis, portions of "25 percent fund" payments from national forest receipts to which the county is entitled under the act of May 23, 1908. We will be glad to discuss this and other possible approaches with the county.

○

Calendar No. 981

91ST CONGRESS
2^D SESSION

H. R. 914

[Report No. 91-977]

IN THE SENATE OF THE UNITED STATES

MARCH 4, 1970

Read twice and referred to the Committee on the Judiciary

JUNE 26, 1970

Reported by Mr. EASTLAND, without amendment

AN ACT

For the relief of Hood River County, Oregon.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That Hood River County, Oregon, is relieved of all lia-
4 bility to the United States for any amounts owed by such
5 county to the United States for amounts claimed by the
6 United States Forest Service, Department of Agriculture,
7 for alleged timber trespass arising out of timber sales dur-
8 ing the period 1946 through 1961, inclusive, from the land
9 described as follows:

10 One hundred and sixty acres of land, more or less,
11 located in Hood River County which land is more fully

1 described as the northwest quarter of the northeast quarter
 2 and the north half of the northwest quarter and the south-
 3 east quarter of the northwest quarter of section 9, township
 4 1 south, range 8 east, of the Willamette meridian.

Passed the House of Representatives March 3, 1970.

Attest:

W. PAT JENNINGS,

Clerk.

Calendar No. 981

91ST CONGRESS
2^D SESSION

H. R. 914

[Report No. 91-977]

AN ACT

For the relief of Hood River County, Oregon.

MARCH 4, 1970

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United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

Vol. 116

WASHINGTON, WEDNESDAY, JULY 29, 1970

No. 129

Senate

The Senate met at 11 a.m. and was called to order by Hon. WILLIAM B. SPONG, JR., a Senator from the State of Virginia.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, before the mountains were brought forth, or ever the world was formed—from everlasting to everlasting, Thou art God. Grant us now an awareness of Thy presence that shall brace us for new tasks. Empower us to work with sensitive spirits and sharpened minds. When evening comes may we be at peace with Thee and with one another.

Remember, O Lord, all those who labor under the danger of death that others may be comforted and protected. Sustain those who represent the Nation in the Armed Forces and those who by diligent service and constant sacrifice enforce the law and keep the peace.

Bless all who work in the laboratory, at the bench, on the farms, or in offices, and grant that we may so hallow daily toil as to make it a divine vocation. Unite our endeavors to make us a better people and a better Nation.

In the name of the Craftsman of Nazareth. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore of the Senate (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 29, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. WILLIAM B. SPONG, JR., a Senator from the State of Virginia, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. SPONG thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of

the Journal of the proceedings of Tuesday, July 28, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Virginia (Mr. SPONG), there be a period for the transaction of routine morning business with statements therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. If the distinguished Senator from Arizona (Mr. FANNIN) would allow me, without losing any of his time, I should like to bring up a few unanimous-consent requests at this time.

Mr. FANNIN. I am happy to yield to the Senator from Montana.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The assistant legislative clerk proceeded to read sundry nominations in the Coast Guard, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOOD RIVER COUNTY, OREG.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 981, H.R. 914, and that the Pastore rule of germaneness not apply in this instance.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. H.R. 914, for the relief of Hood River County, Oreg.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PACKWOOD. Mr. President, the Senate has an opportunity today to clear up a long-standing controversy concerning 160 acres of land in Hood River County, Oreg.

The problem stems from a misunderstanding regarding the ownership of a 160-acre tract of land located immediately south and east of the Hood River County Forest. This area was mistakenly designated a part of the Hood River County Forest in September of 1950 and was managed as a part of the county forest. In 1961, however, the county's ownership of the land came into question. Inquiries by the Bureau of Public Land Management resulted in a determination by the Government that the land was a part of the Mount Hood National Forest. The Hood River County Commissioners were notified of this determination in November of 1963.

Prior to that notification, the county, quite understandably, regarded itself as the sole owner of the land. Based on this assumption, the Forest Service, acting under contracts with the county, planned, supervised, and carried out five separate sales from the property between 1946 and 1961. Hood River County received a total of \$84,841.36 from those sales. The amount claimed by the United States is based on this payment to the county.

As a result of this unusual set of circumstances, Hood River County is faced with the very real problem of having to potentially repay the Federal Government \$84,841.36. I find the prospects of forcing payment on the taxpayers of Hood River County to be unacceptable. Officials of Hood River County, representing the taxpayers of that county, acted in good faith. An honest mistake was made—a mistake which Uncle Sam must share. The money was not wasted—it was used for valid purposes to better serve the citizens of Hood River County.

Let me also say something about the economic conditions of Hood River County. They are not good. The latest unemployment figures show that as of May 1970 there was an 8.3 percent unemployment rate in the county. In addition, the county's fruit crop suffered substantial damage earlier this year. So at this particular time, when economic conditions are far from the best, it seems ill-advised to ask Hood River County taxpayers to pick up the tab for a mistake of the Federal Government.

I believe that H.R. 914 will solve the problem. It would relieve the county of the obligation of paying the United States the \$84,841.36 claimed by the Government. Considering the tremendous burden that repayment would impose on the county, it seems to me that H.R. 914 offers a fair and equitable solution to an unfortunate situation.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-977), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve Hood River County, Oreg., of all liability to the United States, based on the proceeds of timber sales from 160 acres of land considered to have been a part of the Hood River County Forest in the period 1946 through 1961, which land was subsequently held by the United States to be Federal land.

STATEMENT

In its favorable report on the bill, the House Judiciary Committee set forth the facts of the case as follows:

During the 90th Congress a similar bill, H.R. 3165, was favorably reported and passed the House on June 3, 1968. That bill was the subject of a subcommittee hearing on Wednesday, April 24, 1968. At that time, representatives of Hood River County, Oreg., and of the Forest Service of the Department of Agriculture appeared and testified concerning the circumstances which gave rise to the claim by the United States against the county. At the hearing a map was submitted which shows the 160-acre tract to be immediately south and east of a tract of

forest land which is part of the Hood River County Forest. The 160-acre tract was designated a part of the Hood River County Forest in September of 1950 and was managed as a part of the county forest. It was discovered in 1961 that there was a question concerning the county's ownership of the tract. The report of the Department of Agriculture indicates that at that time, the State's title to this particular land was challenged in private litigation and, in connection with that litigation, inquiries were made to the Bureau of Public Land Management concerning the status of the tract. These inquiries resulted in a determination by the Government that the land was a part of the Mount Hood National Forest. The Forest Service notified the Hood River County Commissioners of this determination in November of 1963.

At the hearing, the representatives of the county testified that prior to these developments, the county, in good faith, regarded itself the owner of the 160 acres of forest land. The county had regarded itself as the owner of the land for more than 40 years since the county had received a sheriff's deed to the property after delinquent tax foreclosure proceedings against the tract in 1922. The basis for the Government's determination that the land belonged to the Federal Government involved the discovery of an 1892 communication in the files of the Department of the Interior indicating that this particular property had been included in a large block of land that was intended for later designation as the Cascade Forest Reserve. This is the action referred to in the Department of Agriculture report when it states that on March 28, 1892, all of section 9 was withdrawn from entry under the public land laws for the purpose of creating the Cascade Forest Reserve.

This particular letter was dated a few months before the State of Oregon selected the 160 acres as "lieu" lands by filing Indemnity Selection List No. 226 on December 27, 1892. Hood River County traced its title from this selection for the State conveyed the 160 acres to a private owner, Mr. Edward Jones, on January 2, 1893. As has been outlined above, the county subsequently acquired the land as the result of foreclosure of delinquent taxes which had accrued subsequent to its conveyance to private ownership and prior to 1922. The Government's position is, in substance, that, notwithstanding the selection by the State, its subsequent conveyance to a private individual, and the acquisition of title by tax foreclosure proceedings by the county, and the subsequent 40 years during which the county asserted its rights as owner of the land, the U.S. Government still had title to the land and further never parted with title to the property.

In the report of the Department of Agriculture, it stated that prior to discovery of the question concerning title in the county, the Forest Service assisted the county in the management of this particular property along with more than 26,000 acres of the Hood River County forest lands. At the hearing on the bill, in the last Congress the representative of the Forest Service stated that at that particular time, the Forest Service, relied on county records in determining the title and boundaries of forest land subject to management. On the assumption that Hood River County was the owner of the 160-acre tract, the Forest Service, acting under contracts with the county, planned, supervised, and carried out on behalf of the county five separate sales of timber from the property between 1946 and 1961. The Hood River County received from those sales a total of \$84,841.36. The committee is advised that the amount claimed by the United States is based on this payment to the county.

The committee was further advised that the Government also in 1965 claimed title to the property and has sold timber off the

property in 1965-67 for which it has received some \$102,000 in revenues. These revenues are, of course, not involved in the amended bill.

The inequity to which H.R. 914 is addressed arises out of this assertion of rights by the Federal Government in the light of the particular circumstances concerning title and ownership of this specific tract. As a practical matter, no one was aware of the technicalities of the title situation until late 1961, after Hood River County had been considered the winner of the property for over the 40 years which elapsed since the 1922 tax foreclosure. It is also clear that the Government acted after five timber sales had been made on that assumption by the U.S. Forest Service acting for Hood River County. The amended bill will grant relief which, as a practical matter, is unavailable through judicial proceedings. The claim of the Government against Hood River County arose under circumstances demonstrating complete good faith upon the part of Hood River County which treated the 160 acres as its own property for over 40 years after 1922.

The testimony at the hearing indicated that Hood River County, in a court proceeding, probably could not successfully defend against the timber trespass claim of the U.S. Government based on the five timber sales between 1946 and 1961, and therefore could not legally establish its title to the subject property as against the U.S. Government.

The committee has further been advised that payment would impose a substantial economic hardship to Hood River County if the U.S. Government would force a payment of \$84,841.36. The total budget of this small county for the previous fiscal year was \$1,686,313, of which \$351,744 was raised from taxes imposed directly on its citizens and their property. A timber trespass judgment for \$84,841.36 would represent approximately 5 percent of Hood River County's total annual budget. Since any such judgment would have to be paid from additional tax revenue, a judgment for \$84,841.36 would mean a 1-year increase of almost 25 percent in the total direct taxes imposed on the citizens of Hood River County. If the judgment was for double damages (approximately \$169,000), this would represent 10 percent of the county's total annual budget, and a 1-year tax increase of almost 50 percent over the present level of taxation.

The bill, as amended by the committee, would relieve the county of the obligation to pay the United States the \$84,841.36 claimed by the Government but would not grant the other relief originally included in the bill. In the 90th Congress identical amendments were made to the bill H.R. 3165 and the bill passed the House so amended on June 3, 1968. The bill H.R. 914, as introduced in the current Congress, would have also provided for a conveyance of the disputed 160 acres and would have further required a payment to the county of an amount equal to the money paid the United States as the result of sale of timber from the property since assertion of title by the Federal Government. The committee deleted the other provisions so that the bill does not alter the position of the parties as regards ownership of the land. As has been noted, the repayment would impose a heavy burden on the county and it is felt that the amended bill provides for an equitable adjustment of the matter and is fair in the light of all the circumstances which have been detailed in this report. While the Department of Agriculture has questioned relief, the committee feels the amended bill meets most of the Department's objections.

In this connection it should be noted that the General Accounting Office in its report to the committee on the bill has indicated it would have no objection to relief as is now provided in the amended bill if it is determined that repayment would work such a hardship. Accordingly, it is recommended

that the amended bill be considered favorably.

The committee, after a review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 914, without amendment.

The bill was ordered to a third reading, was read the third time, and passed.

DISCOVERY OF MERCURY CONTAMINATION IN OUR STREAMS, RIVERS, PONDS, AND LAKES

Mr. SCOTT. Mr. President, many Americans are alarmed about the discovery of mercury contamination in our streams and rivers, ponds, and lakes. My friend, the distinguished Senator from Vermont (Mr. PROUTY), is doing something about this problem.

In testimony before the Environmental Subcommittee of the Committee on Commerce, Senator PROUTY laid the problem of the line and outlined ways of responding to mercury contamination.

I think they will find Senator PROUTY's testimony one of the most compelling to date on the problem of mercury pollution. I think that they will agree with his observation that:

What we have learned about mercury recently indicates that what we see and know about pollution is not as frightening perhaps as the unknown and unseen.

Mr. President, for the benefit of my colleagues, I ask unanimous consent that Senator PROUTY's testimony be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR WINSTON PROUTY, REPUBLICAN OF VERMONT, TO THE ENVIRONMENTAL SUBCOMMITTEE OF THE U.S. SENATE COMMITTEE ON COMMERCE, JULY 29, 1970

Mr. Chairman, as we all know, at least 20 states are now experiencing major problems with mercury contamination. We are rudely confronted with the product of either our ignorance or inattention, or both.

Although it took us in the United States somewhat by surprise, we should have been prepared because mercury poisoning is not a totally new phenomenon. In the last decade Japan has suffered two crises of mercury poisoning, resulting in nearly 100 deaths and many cases of birth defects. Mercury poisoning in the past six years has left 35 dead in Iraq, 4 in Pakistan, and 20 in Guatemala. In December of last year, three children in New Mexico suffered permanent brain damage after eating pieces of a hog bred on mercury-treated seed grain.

In 1965, the Swedish Royal Commission on Natural Resources established the relationship between mercury pesticides and a large decrease in the bird population. In 1968, it was the Swedish delegation to the Codex Committee on Food Additives which presented concrete evidence of how mercury effluent from industrial production contaminates fish.

The toxicological, or poisoning, process of contamination is similar to that of DDT. Inorganic mercury (of which the U.S. annually dumps over 6 million pounds into its waters) is highly insoluble in water, and, therefore, of little danger to fish. However, it is taken into the food chain by microorganisms, which are in turn eaten by predators and so on up the food chain, until the mercury, now in a methylated organic form, is taken into the systems of the perch, walleye, carp, et cetera, and finally on to man, last link in the food chain. At each stage, the mercury is more concentrated.

When the highly compounded methyl mercury finally does reach man, it can cause neurological and brain damage, as well as injury to the liver and kidneys. Studies have shown the ease with which mercury in its methylated form can penetrate both the placental barrier and brain barrier, causing severe birth defects. In all cases, 10% of all the mercury we ingest goes to the brain; it is lethal to brain cells.

The mercury effluent remains in the environment from 10 to 100 years after dumping. This fact must not be lost on those who would urge delay in implementing mercury control.

Some states have now been forced to ban all commercial fishing in their waters due to actual or suspected mercury poisoning in fish. Michigan is one, Vermont is another. It is not necessary for me to describe the unavoidable hardships imposed by this ban. But several aspects of the Vermont case will, I think, interest you.

Following the ban on fishing, the State Agency of Environmental Conservation instituted a task force to undertake a complete study of the mercury problem.

After becoming aware of the troubles experienced along the Great Lakes, we were not surprised that our own Lake Champlain should have substantial amounts of mercury contamination. The figures show poisoning in fish as high as 1.4 parts per million in the Outer Mallets Bay zone, and 2.0 parts per million in the Mississquoi River (The Food and Drug Administration says that .5 parts per million of mercury is dangerous to human life and must be dealt with). These are areas which we checked first, as they have a certain amount of industrial concentration, and so were considered most probably to contain mercury.

But the, as a matter of course, the task force checked Lake Memphremagog. I am sure that you can appreciate our amazement at finding levels of mercury in excess of .5 parts per million, since we are unaware of any industry now or in the past that has used any appreciable quantities of mercury in that region of Vermont or Canada.

Then it became apparent that we had a new ballgame. Consider an area like Silver Lake. It is located in the Green Mountain National Forest, atop a mountain and accessible only by four-wheel drive vehicles or by pack trip. It has no industry whatever—but it does have mercury contamination.

When Joe's Pond in Danville, Vermont produces fish contaminated eight times beyond the level set by the FDA, we are warned that the issue is far more complex than we had supposed. Presently, fish from all bodies of water 20 acres or larger are being analyzed. In almost every case, the findings show substantial amounts of mercury poisoning.

Vermont is not a heavily industrial state, and has none of the chemical industries usually identified as the prime polluters. Almost no agricultural mercury seed grain is used. The orchards discontinued use of mercury years ago. So did most milk testing plants and paper processors. So where does the mercury come from?

Mr. Chairman, we realize now more than ever that this is no simple matter and that mercury pollution must be attacked from a number of fronts.

There are numerous other areas in which further research is urgently needed. One of the possible sources of pollution cited by our task force in Vermont is fallout—but, this is just a hypothesis. We know, too, that there is mercury naturally present in the environment, but are not sure how this affects our ecological balance. We in Vermont are doing all that we can, assisted by the facilities of our universities. Additionally, at my request, a program of sampling is now being undertaken by the U.S. Public Health Service. Yet the resources of a single state cannot solve all aspects of this nationwide problem.

Finally, we have come to realize that we can no longer afford to let these problems sneak up on us. With each day's dumping leading to some mercury contamination for 10 more years, we must anticipate the next ecological crisis. In Vermont, once we finish our investigation in mercury, we shall study lead, and continue with other minerals, until we are satisfied that we are not sacrificing permanent health to present convenience. After fish, we shall move to study muskrats, ducks, and other aquatic animals. Again, there is too much to do.

At the moment, we are stunned by our lack of knowledge. We cannot even identify all the sources of mercury contamination. Vermont is only a small state, but we are doing, I feel, a truly outstanding job of research to combat mercury pollution. I hope that other states which do not feel themselves threatened by the problem will take a hard second look. I hope states which mistakenly feel that by stemming the flow of mercury effluent they will end their troubles will learn from our experience in Vermont. And most of all, I hope that our state efforts will now be complemented by increasing concern from the Federal Government. Vermont's predicament is now the nation's problem.

Nationwide it is apparent that action is essential in three areas—assurance that (1) no contaminated fish are sold in the marketplace, (2) prevention of industrial effluent of mercury, and (3) development of a long-range problem of information, analysis and transfer which will be adequate to prevent unintentional pollution.

First, we must be sure that all contaminated fish are removed from the market. It is the responsibility of the Federal Government to ensure that dangerous food fish are not introduced into interstate commerce, by co-operating with state authorities to sample and test for contamination.

While removal of the adulterated fish solves the short-term health hazard, secondly industrial effluence of mercury must also be halted. The Department of Interior is moving hard against mercury pollution. Two weeks ago, Secretary Hickel threatened court action against mercury polluters, and ordered the Federal Water Quality Administration and the U.S. Geological Survey to seek out polluters. He also wired the governors of 17 states where mercury pollution has become a major problem to urge them to take action at the state level. Last week he asked the Department of Justice to move against companies which have refused voluntary self-restraint.

Justice now says that they will bring suits against eight of these corporations, under the Refuse Act of 1899. The Administration has thus taken a large step forward. Establishment of minimum levels at which the government will act frees the states from the competition for business which sometimes causes ecological havoc. However, President Nixon also has the power, granted in the Water Quality Improvement Act, to designate mercury a "hazardous substance" and to recommend methods and means for the dealing with them when they become a problem? Before the crisis becomes more alarming, this should be done.

But the Administration must also realize that an end to an effluent is not an end to contamination. In view of Vermont's problems, and with the realization that Vermont is not an industrialized state, I feel that the present Federal concentration on large industries may in the end be misleading. Unless the larger industrialized states are aware of the findings we are getting in Vermont, they may very well end up in a complacent mood feeling that if they only zero in on large industrial users and figure once they correct that situation, all is well. (How many industries are there in Detroit compared to Vermont?)

Finally, we need to assure the acquisition and exchange of information on all mat-

ters of environmental pollution. To begin with, the present level of contamination labelled "dangerous" set by the FDA at .5 parts per million is only an "interim guideline" based on a safety factor of only 10 instead of the more usual 100. More study is needed to determine how much mercury we can allow the human body to consume. The formation of the Environmental Protection Agency will be an important step forward in researching and administering pollution control.

Should we fail to remove the contaminated items, fail to plug the sources of pollution, and fail to establish the means for inter-related study and legislative review of the problem, the consequences are staggering. As mentioned previously, once dumped, mercury will remain present in the environment from 10 to 100 years. Further, it concerns me that we have developed no practical way to remove mercury from our river-beds. At present, scientists are at work on various types of absorbent clays which might be introduced into our waters to tie up mercury and eliminate it from the food chain without altering the ecological balance. But as yet they have found nothing workable. In the meantime, what options are open to us in those states so heavily burdened with mercury pollution?

First, the mud from the river-bottom containing the mercury can simply be removed. This would of course be terribly expensive, and result in unknown dangers to the whole environment.

Second, particularly offensive areas could be diked off. But aside from the resulting imbalances, this is only a partial measure. No matter where the mercury itself is dumped, it soon becomes generalized throughout the area as it is passed through the food chain. In bodies of water which have no known source of industrial effluent mercury, this method is useless.

In short, awaiting further scientific progress, we have no recourse against mercury already present in our waters. The mercury dumped while I am speaking will plague us for decades, and will probably end up in our own system.

What we have learned about mercury recently indicates that what we see and know about pollution is not as frightening perhaps as the unknown and unseen.

Perhaps it is wise to interject an optimistic note. I believe there is some reason for optimism. We have seen a change in the basic approach of government from the day it was only a referee among interests competing for resources to the day when government must be considered the trustee of the environment for all the people.

It must administer this trust not with stop-gap measures to halt specific abuses but with a clear top priority national goal of a quality environment for all. We must channel our wealth into protecting our future. If we fail to do this, we must be confronted by an environmental catastrophe that would render our wealth meaningless and which no amount of money ever could cure.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, both the Republican leader and I wish to thank the distinguished Senator from Arizona (Mr. FANNIN) for his courtesy and consideration in yielding to us at this time.

Mr. FANNIN. It was a pleasure to yield to the majority and minority leaders.

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair now recognizes the distinguished Senator from Arizona (Mr. FANNIN) for a period not to exceed 20 minutes.

THE PROBLEM OF INFLATION

Mr. FANNIN. Mr. President, the people of this Nation are challenged by many vexing problems—lawlessness and disorder in our streets, the war in Vietnam, the apparent alienation of the young, the expansionist policies of Russian communism in the Middle East, and the erosion of the purchasing power of the dollar resulting from inflation. This last, in my view, is the most persistent and the most pressing.

Each month the Nation's newspapers headline every change in the cost of living. The workers win a wage increase and then watch their gains evaporate in the heat of higher prices. The process is particularly cruel for those on fixed incomes, retired producers living on pensions or savings.

There is a great divergence of opinion among the economists over many aspects of our present commercial and business structure. Some voices contend that a small amount of inflation contributes a beneficial influence on the Nation's economic health. But there is almost universal agreement condemning the escalated inflationary rates of recent years.

Various critics place some of the blame for the dangerous erosion of the purchasing power of the dollar on a variety of causes. But, Mr. President, I think there is almost unanimous agreement on the proposition that uncontrolled Federal spending, financed by borrowing, is the major cause of the inflation threatening our economic stability.

Mr. President, since the election of President Franklin D. Roosevelt Federal spending has exceeded Federal income in all but 4 of those years.

Deficit spending, which was inaugurated in an effort to overcome the great depression, was further accelerated during World War II and the Korean conflict. Even President Eisenhower, who was dedicated to balancing the budget, was able to achieve that objective in only 3 of the 6 fiscal years for which his policies were responsible. Without interruption, there has been a deficit—an excess of expenditures over income since fiscal 1960.

During this period many rational voices have argued the virtues of a balanced Federal budget. The leaders of both political parties have professed to be dedicated to bringing an end to deficit spending.

Most recently the Nixon administration hopefully projected a balanced budget for the fiscal year just concluded—a projection which failed to materialize because the Congress appropriated and spent more than the Government received in income.

Mr. President, every Member of Congress is painfully exposed to demands for increased spending. The Nation's unmet needs, some of them very real, are unlimited. Perhaps there are times when deficit spending can be justified. The tragedy is to be found in the truth that deficit spending has become a habit. The pattern has been established. Reasons, both personal and political, have de-

stroyed the ability of the Congress to break the habit of deficit financing.

It is not my intention to condemn the Members for their actions. Each one of us, where our own particular constituency is involved, has on occasion stubbornly resisted every attempt to reduce some particular appropriation or curtail some particular program.

Indeed, it can be said with some certainty that a Member who adamantly refused to advance the claims of his constituency for some special governmental financing would arouse such voter wrath as to be replaced at the next election.

I shall not enlarge on this theme. It is, I think, a truth which must be recognized.

Must we then continue to borrow against the future? To commit our children's children to repay the funds borrowed today to indulge our own desires?

History is littered with the ruin of nations destroyed as a consequence of reckless governmental spending.

The well-intentioned Members of Congress, recognizing the danger which threatens us—and I say all Members of Congress are well intentioned in this particular—are unable to escape the established pattern and resolutely bring a halt to deficit financing.

Therefore, Mr. President, it is our responsibility to find a remedy, a rescue method which can work to halt the evils which now hold us prisoner.

It is, therefore, my intention, Mr. President, to offer as a practical, workable solution the adoption of an amendment to our Constitution.

This amendment would require that the Federal Government expenditures in any fiscal year be limited to the Federal Government's income from sources of taxation, with two exceptions provided: First, in the case of a declared war and the need for defense outweighing the need for fiscal restraint; and second, to provide more latitude in a time there was a Presidentially declared national emergency—for example, such as the great depression which paralyzed our society in the early 1930s.

The effect of such an amendment, Mr. President, would be to require the Congress and the administration in the preparation of the national budget and appropriation bills to either forgo the spending or to increase the taxes.

In my experience, Mr. President, the Members of Congress have always exhibited an admirable reluctance to increase taxes. Yet there have been tax increases when the need for increased income was clearly justified.

Mr. President, the prudent household is required to live within his income or face bankruptcy. Confronted with this unpleasant alternative, the housewife manages her expenditures within the limits of the family income.

Every family in America, every wage earner, has a desire to acquire certain material things which are beyond his income. Reality requires the establishment of essential priorities, and those items, sometimes purely luxury items and sometimes near necessities, must



Public Law 91-374
91st Congress, H. R. 914
August 11, 1970

An Act

For the relief of Hood River County, Oregon.

84 STAT. 718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Hood River County, Oregon, is relieved of all liability to the United States for any amounts owed by such county to the United States for amounts claimed by the United States Forest Service, Department of Agriculture, for alleged timber trespass arising out of timber sales during the period 1946 through 1961, inclusive, from the land described as follows:

Hood River
County, Oreg.
Relief.

One hundred and sixty acres of land, more or less, located in Hood River County which land is more fully described as the northwest quarter of the northeast quarter and the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 9, township 1 south, range 8 east, of the Willamette meridian.

Approved August 11, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 91-833 (Comm. on the Judiciary).
SENATE REPORT No. 91-977 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 116 (1970):
Mar. 3, considered and passed House.
July 29, considered and passed Senate.

